2: Hudson E-4, 5 (1936) 1938 RQ2 Kazak RQ2

animals against inclement weather. Formerly it had been the practice, as was still the case in many places until very recently, to graze the herds in the open throughout the winter. The horses would first break the crust of the snow with their hoofs and eat the tops of the grass, after which the other animals could get at the remaining stalks.[35] Even at the present time[36] most cattle are pastured out during the winter. Rich men especially sent off their cattle to graze under the care of herdsmen since their large herds could not all be accommodated in or near the winter quarters.

Agriculture, except perhaps in the extreme south, where the influence of Bokhara was strong, is an even more recent innovation than the provision of fodder, and less widely practised. Only the poorest individuals who had neither animals nor other means of subsistence resorted to it.[37] The recency of the development of agriculture is apparently reflected in the question of land ownership which will be examined along with other property rights.

PROPERTY RIGHTS

Kazak social structure as manifested in property rights may be considered in relation to ownership of cattle, grazing lands, the winter habitations, and agricultural and meadow land.

Cattle were all held in the individual ownership of members of the group, usually by male heads of families. There is some indication, however, to suggest that they could be considered as belonging to the family as a whole but held in trust and utilized for their benefit by its head. Such a situation, for example, might be implied by the right of sons to demand from their father a portion of his animals on coming of age.

There is also perhaps a suggestion of former even wider communal ownership of cattle in the custom of marking all animals belonging to members of a particular uru with the same cut or brand (tamba) (usually mentioned in the literature as tamga).[38] To infer from this, however, an earlier communal ownership of cattle is extremely unsafe. Although similar tamgas for a whole uru were widely known it is very uncertain to what extent they were used to mark cattle. In recent times at least most cattle appear to have been marked with a personal individual tamga of their owner. According to my informants group tamgas were not used on animals; each man might have not only his own tamga but a different kind of mark for each kind of animal. This is confirmed by Grodekov who adds significantly[39] "... anyone wishing to mark his cattle may *invent* [italics mine] his own tamga but once having adopted it he may not alter it." Although everyone was in theory entitled to his

[35] See Levshin, *Description des hordes*, 412; also Pallas, *Voyages*, 1: 600.

[36] Baronov, Bukeikhan, and Rudenko, *Kazaki*, 8–9.

[37] Levshin, *Description des hordes*, 413; Zaleskie, *La Vie des steppes*, 53–54; Meyendorff, *Voyage d'Orenbourg*, 38; Wood, *The Shores of Lake Aral*, 108

[38] Grodekov, *Kirgizy i Karakirgizy*, 3–4, and supplement, 4–7; Radlov, *Aus Sibirien*, 1: 279; Czaplicka, *Turks of Central Asia*, 41–42.

[39] *Kirgizy i Karakirgizy*, 3.

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422 own tamga, in practice their use was largely restricted to the wealthy owners of large herds. A poor man with a few animals would know all of them by sight and have no need for a tamga, while the rich man with thousands of cattle and sheep grazing over an extensive territory required a mark of identification for them. Radlov[40] remarks that among the Altaians tamgas were used mostly by the rich since the poor readily recognized their comparatively few horses. In this connection it is possible, though I have no evidence to support it, that group tamgas may have acquired an individual significance. As wealth in cattle tended to be concentrated in the hands of a few individuals who stood in the position of patrons and protectors to large numbers of their poor kinsmen, group tamgas which formerly had marked the animals of all members of the uru, without necessarily implying that they were collectively owned, would more and more be found marking the cattle of its most affluent individual. Thus a group tamga might become identified with a personal tamga of its most important and influential man.

423 The question of the ownership of the summer grazing lands is a difficult one in practice, though not particularly so in theory. Theoretically there was no permanent ownership of the steppe pastures; the utilization of them was based on occupancy and the right of the first comer, but the details by which such right of utilization was determined are hard to discover. In general it may be said that such lands were apportioned more or less by tradition among the various uru groups within the limits of which any members of the group were free to move as they wished.[41] There appear, however, to have been no very clearly defined boundaries and the area occupied by any given uru group was liable to constant shifting. Asfendiarov[42] writes that " . . . actually the boundaries of the Kazak gentes were not delimited." My information on this question is not very satisfactory because concrete material was difficult to obtain. On first raising the question it appeared, as stated above, that each uru group had its own collectively owned territory, the boundaries of which were determined by agreement between the important members of the interested groups. Within these groups the use of the land was allotted to particular families by the aqsaqal. When, however, I sought more specific information on the procedure and bases by which boundaries were determined and lands allotted, difficulties were encountered. Kargabaiev said it was all done by "old custom," while Tlenshiev, after trying to produce examples, reversed his position and said that the summer pasture lands were completely open, unrestricted, and could be used by anyone of any group who chose to do so. This result emerged from a discussion of what would happen if members of one uru were found grazing their cattle on the land of another. According to Tlenshiev nothing would happen; if they arrived first they were entitled to the use of the land; it was not the pasture land but the

[40] *Aus Sibirien*, 1: 279.

[41] Baronov, Bukeikhan and Rudenko, *Kazaki*, 9; Dingelstedt, *Le Droit coutumier*, 213, 214; Radlov, *Aus Sibirien*, 1: 414–15, 418; Schomberg, *Peaks and Plains*, 98; Rudenko, *Ocherk Byta . . . Kazakov*, 10; Kuftin, *Kirgiz-Kazaki*, 24; Czaplicka, *Turks of Central Asia*, 43.

[42] *Istoriia Kazakstana*, 100.

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under the control of its leaders who determined the camping places and the routes. "Every of their captains according to the great or small number of his people knows the bounds of his pastures and where he ought to feed his cattle spring and summer, winter and autumn."[87]

Such was probably also the case at an earlier date although the evidence is indirect and somewhat confusing.[88] The territory on which any social group habitually migrated was known as nuntux in Mongol and yurt in Turkish. These words meant "district, encampment or place of abode."[89] There are references to particular places or regions being traditionaly occupied by certain specific groups:[90] "Their dwellings and yurts were designated individually by tribes and by branches . . . ." And again:[91] "Among this tribe the yurt and their places were united together and it was determined from where to where was the yurt of each."

However, there are frequent instances of several groups migrating together in one territory.[92] In one place in the "Secret History"[93] Chingis remarks to one of his relatives: "In former times you, along with three houses of Tokhuraut, five houses of the Tarkhut and two other gentes, the Chanshikit and Bayaut, formed with me a single camp."

Vladimirtsov[94] writes: "The ancient Mongol gens knew a communality of pastoral territories." But it is not clear, either from the evidence or his discussion whether this means a communal ownership of a particular area by the members of the gens or whether it implies that all pastoral lands were open to all the members of any gens who chose to use them. This is the same problem which has been discussed in relation to Kazak grazing grounds. In general it seems probable that there was a fairly clear concept of the nuntux or yurt as a territory belonging to a particular gens. To this principle however there appear to have been many exceptions.

All movable property, cattle, kibitkas, vehicles, and the products of home industry were held in individual ownership by the members of the gens.[95] There is vague mention of marking cattle with tamgas which apparently were the same for all members of the gens.[96] Marco Polo, however, indicates that each individual might have his private tamga.[97]

On the death of the head of a household his property was inherited by his youngest son.

[87] *The Texts and Versions*, 188.
[88] Vladimirtsov, *Obshchestvennyĭ Stroĭ*, 42–43; 76–78.
[89] Translation from the Mongol text of the "Secret History," Vladimirtsov, *op. cit.*, 57.
[90] Rashid-ad-Din, *Sbornik Letopisei*, 1: 49.
[91] *Idem*, 1: 135.
[92] Vladimirtsov, *op. cit.*, 57.
[93] *Sokrovennoe Skazanie*, 120.
[94] *Obshchestvennyĭ Stroĭ*, 56.
[95] *Sokrovennoe Skazanie*, 44–49.
[96] Rashid-ad-Din, *Sbornik Letopisei*, 1: 76; *Sokrovennoe Skazanie*, 44–45; d'Ohsson, *Histoire des Mongols*, 1: 13.
[97] Yule, *Book of Ser Marco Polo*, 1: 266.

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thousand soldiers and the millenaries unto each captain of a hundred, the captains unto each corporal of ten. 642 423 565

Further there is some indication that the feudal lords were considered the personal owners and proprietors of the land occupied by their people, which formerly had been the property of the community as a whole.[166] Thus Rashid[167] describes Tuli, one of Chingis' sons, as "lord of the land (yurt) and dwellings" of certain tribes. Too many inferences, however, should not be made from this statement. Rashid was probably not making delicate distinctions, his own information may have been at fault, and his meaning may have suffered during successive translations. In any case, whether or not the feudal lord was considered owner of the land of his ulus he certainly administered its use and controlled the movements of his people rigidly.

The horses and cattle remained the private property of their individual owners, both lords and commoners. Chingis declared[168] that, "A common man if addicted to wine stands to lose his horse, his cattle and all his property." But inasmuch as the ordinary Mongol was obliged to migrate in obedience to the wishes of his lord, and to graze his cattle in places assigned to him, his position in many ways was more that of a dependent herdsman than an independent master.[169] In addition every family of the common people had certain definite obligations to their seigneurs. [422]

These obligations in their economic aspects consisted chiefly in providing the feudal lords with cattle for slaughtering and a certain number of mares for milking in proportion to the size of the owner's herds.[170] Similar requisitions had been made by the tribal chiefs previous to the organization of the empire but appear to have been of a somewhat haphazard and occasional nature.[171] Under Ogodai, the successor of Chingis, these were systematized and regulated.[172]

The organization of the economic administration of the conquered settled regions was more complicated. After the rise of the empire the Mongol khans began to assign fiefs among the agricultural populations to their princes but the land served them only as a source of revenue because the Mongols themselves were not able to administer such estates.[173] Local authority remained to some extent in the hands of the native rulers, while the Mongol overlords maintained personal agents whose principal duty was to collect

[166] Kos'min, *K Voprosy o Turetsko-mongol'skom Feodalizme*, 12–20, 52–54.

[167] *Sbornik Letopisei*, 3: 143.

[168] *Idem*, 3: 126.

[169] The Mongol author Ssanang Ssetsen, writing in the middle of the seventeenth century, indicates that the idea of a man without his overlord was inconceivable to the Mongols. See Ssanang Ssetsen, *Geschichte der Ost-Mongolen*, 187.

[170] Vladimirtsov, *Obshchestvennyi Stroi*, 113–14.

[171] *Sokrovennoe Skazanie*, 76.

[172] d'Ohsson, *Histoire des Mongols*, 2: 14, 63; *Sokrovennoe Skazanie*, 158.

[173] Vladimirtsov, *op. cit.*, 114–15.

574 atangnyng khuny kitse de kish).

576 For insulting a guest a complaint is made on a general basis, although it is advised to argue with him, and not to offend him (azar bermek) in accordance with the proverb: "When they come into your tent, do not speak forth your claim, even though it be as big as the tent" (uinge kelgende uydey dauyng bulsa da aytpa). To call a guest or a person hiding from the pursuit of evildoers a thief or a criminal for no reason, and to take him /114/ to the authorities is not reprehensible if the guest is not a close kinsman. The right of sanctuary is known (1) to the Kazakhs and Kirgiz. A

1. Levshin states the same, Part III, p. 82.

thief and someone accused of thievery is not accepted as a guest and is handed over to the person who demands his delivery. If (according to Abdrakhman) a man who is pursued by an enemy asks protection in some tent, and his enemy enters the tent, then both are driven out and left to cut each other up in the steppe. However, this depends on the personal qualities of the master of the tent.

The responsibility of the host for anything stolen from the guest is now more in vogue than it was previously.

When a newcomer, known or unknown, stops before the setting of the sun at some tent, the master of the tent either slaughters a sheep for his regalement or makes amends to the guest with kind and welcoming words. If the guest considers the latter short shrift and he himself slaughters a sheep from the herd of the owner of the tent, the guest will be judged as in the right and the host guilty. (Report of bii Shanchi Chinybekov of the Auliye-Ata uyezd).

•[422] 612 The community of property of the Kazakhs is founded on the clan principle. The closer the circle of kinship, the more the members of it use each other's property without control. Children take from their parents what they need or what is pleasing to them. Thievery in the circle of the family is only called "taking away secretly" (yasyryb algan). Nephews on the wife's side (dzhien) always steal from their uncles (taga), according to the saying. The brother-in-law (the sister's husband - yezna) and the uncle, in accordance with their powers, add (kosady) their share to the kalym. Mutual suits among matchmakers are examined by the biis very unwillingly. They are reconciled directly on the basis of kinship (biis' books of the Perovsk uyezd). Male first cousins on the father's side (nemere) support each other by livestock without incurring a debt, by the ad-

425 Among the Kirgiz a find belongs to the finder, with its division into parts for the witnesses of the find.

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• 422 577 Scrupulousness with regard to objects accepted for safe-keeping (amanat) is a moral obligation, but not a juridical one, as is evident from its name: "godly amanat" (kudai amanat). Therefore objects are given for safe-keeping only to persons one knows well, or to kinsmen.

422 685 672 Objects being kept in safe-keeping are returned to the owner on his first request. The owner beats the guilty person for their fraudulent loss and sale, calling him to account, as though for robbery. The keeper is not held responsible for an accidental loss, reported immediately to the elders or authorities. The Kirgiz have /123/ the same custom. For the undeclared loss of an object which was given without witnesses, an oath is required from the defendant or the plaintiff, if they are good people. On the basis of the oath they may or may not require the return of the object and the payment of court expenses, but there is no fine or other penalty. If the object was given before witnesses, the judgment is made without the oath. If expenses were connected with the acceptance of the objects for safe-keeping, these are paid by the owner.

If the person who has accepted the object requested it himself for temporary use, he pays the expenses connected with its transfer, also for the deterioration of the object from use, and for accidental damage and loss (for example, the loss of livestock during a snowstorm).

Cargo being conveyed by drivers is also considered something entrusted for safe-keeping. The loss of the cargo by a driver who has engaged himself to deliver it to its destination is equated with premeditated robbery, i. e., the value of the cargo is returned with a fine of double the value. In case the driver was forced by necessity to transfer the cargo to another person to deliver, he is freed from the responsibility, upon presentation of a receipt from this person.

If in a fire or other general calamity (tengri kazasy) only the amanat perished and no other property, the full value of it is required to be paid. If, however, the amanat and the property of the person keeping it both perished, then the latter either pays half its value, or 422 else pays nothing at all (Perovsk and Auliye-Ata uyezds). An agreement is made concerning the degree of responsibility for the object

entrusted for safe-keeping before it is accepted (the Kirgiz Kurpetai Dauletkulov). 422

When someone migrates with his herds into a strange winter camp, he usually asks its owners to give him a place on the conditions of amanat. At first they refuse him. Then he promises to repay them. After this, in part for the sake of a good deed (savab), and in part for profit, they give him a place, but for no more than one year. 426

In contradiction to Makovetskii, according to Torgai it is not customary to lend out milking animals for money. Oxen, horses and camels are lent out on shares (seriklikke) for agriculture.

/124/ If an animal which has been taken as an amanat is returned in a very emaciated condition which makes its owner think that it will not live through the winter, then the person keeping it for safe-keeping promises to feed it until the spring. 422

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Something which was given or contributed for a pious (nazr) or charitable (kudai) end is not returned, nor is a gift intended to honor a superior (izzat) or a inferior (inam) person. 431

Clothing given by highly placed personages should be worn during presentations to these persons. [576]

Gifts for friendship, called kolka, are subject to return if they are not reciprocated for by similar gifts in the course of a certain time (Auliye-Ata uyezd). Among the Kirgiz, stealing one's gift back is punished like ordinary stealing. According to Torgai, the bii says to the thief: "Why did you give it away? Now it is already his property." The defendant replies: "My relatives did not consent to the gift which I gave. I was ashamed to demand it back, and therefore I stole it." The bii either requires him to return the stolen object to the one to whom it was given, without a fine for stealing, or else sentences him to a fine, without returning the object, since the thief was its owner. [685]

If someone is driving military booty, those who encounter him say say: "Hey heroes, give us sauga! (1) Then it is obligatory to give up

1. Among the Kazakhs sauga means a gift asked from those returning from war (according to bii Khalmakhammed). Among the Sarts, however, sauga or saugati means the same as what the Kazakhs call bazarlyk.

a horse, sheep or some other object.

[Inner Horde]

613 called ata-bala. An important acculturative note in
this connection is that taifa[1] is of Arabic origin, in-
[177.61] troduced into the Turkic social organization through
the intermediation of Islam.[235] The term ata-bala is
a bineme composed of the words for father and for child,
thus indicating the indigenous conception of the patri-
[614] lineal descent principle. The clan had disappeared in
the Inner Horde by the 1880's, the clan uran was for-
[422] gotten, together with the clan cattle-brand or tamga.
These tamga were not property marks, they were clan
signs.[236] Lineages had come to take over clan functions,
becoming the named units to which people attributed mem-
bership, with their cries and brands. On the other hand,
many clans might be combined into one unit.[237] by the
process of fusion.

177.61 The clan had become an administrative unit under
614 the Khan, who in turn was in the Russian service; the
clan leader was selected by the central administration.
The clan was no longer collectively responsible for the
debts of a member as it had been in previous times ac-
614 cording to Kharusin's report. On the other hand, the
clan had been the unit of exogamy as late as 1816, when

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[235] Radlov, Opyt Slovarya, s.v. taifa.

[236] Kharusin, Bukeev Orda, column 48.

[237] Ibid., 41-43.

[1] [i.e. a "lineage" of the Inner Horde; cf. cat. 116, AHI Mongolia, p 496, bot. --Analyst]

613 177.4 565 tion of the structural outlines, a loss of fluidity which can best be shown by examining units smaller than the lineage, such as the village and family.

614 422 The chaotic situation in which the larger descent groups found themselves in by the 1920's--aside from the rigidification of the structural principles--may be seen in the loss of the clan war-cry and cattle-brand. The war-cry or uran now appertained not to the clan, but to the entity which has been identified as the major lineage or byr top. The cattle markings, which were literally ear-marks, tamga, cut into the cattle's ear, were distributed by component sub-lineages or sŏŏk, of the byr top.[265]

613 177.61 601 [631] Acculturative influences, both economic and political in manifestation, have acted to deprive the Kazakh clan and lineage of many functions. Administratively, the Kazakhs were now settled, in a hierarchy of Russian units, the uezd, the okrug, the volost'. These have remained to this day, with the exception of the volost'. Residence and the distribution of camps, pasturages, etc., have come to be reckoned by administrative units, such as the uezd among these Kazakhs, and one of the incidental effects of acculturation has been the sharpening of the dŏien relation.[1] This has taken the following form: In the Altai district (okrug),

[265] Samoilovich, 310-311.

[1] [Cf. cat. 116, AHI Mongolia, p. 509ff.--Analyst]

three and eight tents.[286] The Kazakh of moderate means could afford to have only one wife; but there were those who were without families at all, and these were the very poor.[287]

The relationship between wealth and family composition was intermediated by the continued existence of the kalym.[1] But there was also a relationship between consanguinity and affinity, because a man's kin contributed to the payment of the required bridewealth;[288] if he had no consanguineal kin and no wealth of his own, he might even go unmarried. Thus we may observe, on yet another level, the inter-functioning of patrilineality, marriage, and wealth.

The bride on her part brought as her dowry a tent and household goods, as well as livestock to her husband. The dowry, however, was not fully integrated into the family estate, i.e., the husband's patrimony, for, in Kazakh customary law, the husband could not dispose of the wife's dowry without her agreement.[289] And in this we have a line of continuity from the earliest records of the Turks of the 6th to 8th centuries, A.D., into the

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[286] Ibid., 54.

[287] Ibid., 67.

[288] Idem.

[289] Idem.

[1] [i.e. in the 1920's; cf. cat. 116, AHI Mongolia, p. 244ff. -- Analyst]

[Soviet Era]

583 422 Soviet era. The Orkhon and Yenisei Turks of that early time likewise distinguished between the husband's estate and the dowry of the wife such that the husband could seize it only in payment of a fine; short of such a contingency, the dotal property was in a separate category.

58 Betrothals were arranged while the children were not yet of age, subject to the supreme authority of the family head. The junior levirate not infrequently caused a boy of eight or nine years to be married to a mature woman. On the other hand, girls might be married before puberty.[290] A wife on taking up residence in her Hu Fa aul underwent a change in status symbolized by a new soubriquet which generally signified whether she was pretty, clever, sympathetic, etc.[291] The new name thus emphasized the discontinuity in her social being, but at the same time appears to have been oriented toward positive or praiseworthy attributes in a woman.

[583] 428 The inheritance complex involving primogeniture, equitable apportionment and ultimogeniture continued in force. Thus paternal authority passed in the line of the eldest sons, and with it as a rule the totality of the incorporeal property, in such titles, ranks, honors, prestige as the Soviet era still permitted.

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[290] Ibid., 48.

[291] Ibid., 59.